



## CALIFORNIA STATE PERSONNEL BOARD

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ARNOLD SCHWARZENEGGER, Governor



### **CALIFORNIA STATE PERSONNEL BOARD MEETING**

801 Capitol Mall  
Sacramento, California

Public Session Location – 801 Capitol Mall  
Sacramento, California, Room 150  
Teleconference – 320 West 4<sup>th</sup> Street  
Los Angeles, California, Suite 620

Closed Session Location – 801 Capitol Mall  
Sacramento, California, Room 141  
Teleconference – 320 West 4<sup>th</sup> Street  
Los Angeles, California, Suite 620

**SUMMARY MINUTES MEETING – JUNE 7, 2005**

June 7, 2005

## **FULL BOARD MEETING MINUTES<sup>1</sup>**

**JUNE 7, 2005**

### **PUBLIC SESSION OF THE STATE PERSONNEL BOARD**

#### **1. ROLL CALL**

##### **Members Present:**

**William Elkins, President**  
**Maeley Tom, Vice President**  
**Ron Alvarado, Member**  
**Sean Harrigan, Member**  
**Anne Sheehan, Member**

#### **2. REPORT OF THE EXECUTIVE OFFICER – Laura Aguilera, Assistant Executive Officer**

**A.** Provided the following update on joint projects with DPA to improve the State Human Resource system in state civil service.

- Single HR portal – both agencies have contributed financially towards this effort and staff meetings are underway.
- CEA project – discussions have begun to address departmental concerns regarding the establishment, selection and salary processes.
- Workforce planning – the SPB is hosting DPA staff in a teleconference with other State counterparts across the nation. NASPE will be sharing preliminary results of 2005 workforce planning survey. Discussion of the methods and strategies in development and implementation of a workforce-planning program.
- Classification – development of guidance to departments and employee organizations on how to seek revisions to the classification plan and the necessary justification and supporting information necessary to get approval from the SPB.

**B.** Executive Staff held our initial meeting to review and update our strategic plan. Future meetings will help us prioritize current programs/projects, establish performance measures, identify new initiatives and establish objectives.

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<sup>1</sup> The Minutes for the Board can be obtained at the following internet address:  
<http://www.spb.ca.gov/calendar.htm>

- C. The Board President and members of the Executive staff hosted a lunch meeting with 5 of the largest state agencies to discuss Board initiatives and to hear directly from these state agencies about those issues they believe to be critical and the services they need from the HR system. Issues ranged from need to update classifications, more guidance and flexibility in the CEA program, efforts to improve representation of people with disabilities in state civil service and workforce development/succession planning.

**3. REPORT OF THE DEPARTMENT OF PERSONNEL ADMINISTRATION (DPA)  
– Bill Avritt/Darryl Tsujihara**

- A. Contract negotiations update: DPA has reached tentative agreements with Unit 7 and Unit 18. Both tentative agreements are now at the legislature for approval within next two weeks. DPA is also in negotiations with Units 2, 12, and 13. DPA is urging SEIU to start negotiations. Discussions have bogged down over ground rules for bargaining.
- B. DPA has completed its updated Strategic Plan outlining its objectives over the next 3-5 years.
- C. Pilot review of Delegation – DPA has begun a pilot review of delegated personnel management actions within Parks & Recreation and Franchise Tax Board. The review will examine delegation of DPA authority in the areas of classification & pay, position allocation, Career Executive Assignment salary, out of class pay, pay differentials, and hiring above minimum (HAM).
- D. Effective July 1, the Classification & Pay manual will be available for review on-line.

**4. REPORT ON THE PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)**

- A. The CalPERS Board approved new rate stabilization policies, which will affect the 2005-06 employer contribution rates. This means that there should be less fluctuation year to year in rate volatility. The contribution to cover state employees and classified school employees will be approximately \$3.25 billion in FY 2005-06, down from \$3.45 billion in the current fiscal year.
- B. CalPERS endorsed an ongoing stakeholder effort to develop a standardized, universal performance report card for California hospitals. The report card is a venture of the California Hospital Assessment and reporting Task Force (CHART) Project, a coalition of purchaser, health plan, hospital, and consumer stakeholders.

C. Pension reform remains in the forefront. Senator Perata outlined a series of pension reform legislation on April 29 which mirrors some of CalPERS strategic methods at reform.

D. As of mid-May, the fund value was at \$180.5 billion.

**5. REPORT OF THE CHIEF COUNSEL – Elise Rose**

**Litigation**

SPB v. CSEA/DPA - Supreme Court heard oral arguments in this case on May 26, 2005. Karen Brandt presented the oral argument on behalf of the Board, and Anne Geise on behalf of CSEA. DPA did not appear. Supreme Court has 90 days to render a decision.

CDC v. SPB/Pamela Waters

Appellant was demoted from her position as Correctional Sergeant. Appellant moved to dismiss the adverse action on the ground that the Department failed to comply with the statutory requirements for service of a notice of adverse action mail. The Board found that the Department failed to serve the notice at appellant's last known address, although she subsequently received actual notice, and revoked the demotion based upon lack of proper service. The Department appealed. In April 2005, the superior court granted the petition and ordered the case remanded back to the SPB for a hearing on the merits. SPB has not yet been served with a formal order or writ.

Olympia Lara v. SPB/CDC

Appellant was a Program Technician II with the Department of Corrections who was dismissed based upon allegations that she kissed an inmate and then lied about it in an investigatory interview. The Board sustained the dismissal. On March 22, 2005, the San Diego Superior Court denied appellant's petition for writ of mandate and upheld the Board's decision.

Other

SPB Chief Counsel to speak on 6/8/05 Chief Counsels' meeting of Labor and Workforce Development Agency.

**6. NEW BUSINESS**

**NONE**

**7. REPORT ON LEGISLATION – Sherry Hicks**

- **AB 47 (COHN)**

This bill would prohibit the Department of Corrections (CDC) from entering into a contract for medical care services without seeking competitive bids for that contract, unless it can demonstrate that compliance with competitive bidding procedures is not possible by, at a minimum, conducting a market survey and preparing a price analyses that demonstrates, to the satisfaction of the Department of General Services (DGS), that a proposed contract for medical care services is in the best interests of the state. In addition, those medical care service contracts that meet existing criteria established by DGS will also be exempt from the competitive bidding process.

**ACTION: NEUTRAL**

- **AB 195 (DYMALLY)**

This bill would expand the remedies available to individuals who file discrimination complaints with the State Personnel Board by authorizing the State Personnel Board to award reasonable attorney's fees and costs, including expert witness fees.

**ACTION: NO POSITION**

- **AB 836 (HUFF)**

This bill would require that budgets submitted to the Department of Finance for approval utilize a zero-based budgeting method.

**ACTION: NEUTRAL**

- **AB 884 (BACA)**

This bill would prohibit any state agency, including the California State University, from employing a primary care physician as an independent contractor when there is an un-filled, full-time primary care physician position available within the state agency, unless the state agency is unable to do so after a good faith effort.

**ACTION: NEUTRAL**

- **AB 1066 (HORTON)**

This bill would amend existing law to provide that a state agency: (1) may not pay a contractor under a cost-savings contract until the State Personnel Board (SPB) had first approved that contract and all administrative appeals have been exhausted or waived; (2) may not seek to enter into a cost-savings contract with a contractor if SPB disapproved a prior contract with that same contractor for the same services within the preceding 12 months; and (3) must give 10 days prior notice to Bargaining Unit 12 of any contract the agency intends to enter into that may affect that bargaining unit.

**ACTION: NEUTRAL**

- **SB 165 (SPEIER)**

This bill would create the Office of the Special Counsel (OSC), to be housed within the State Personnel Board (Board). The OSC would be charged with:

- a. Investigating whistleblower retaliation complaints and prosecuting those retaliation complaints it deems meritorious, including seeking disciplinary action against those state employees who have engaged in improper retaliatory activities;
- b. Investigating discrimination complaints filed with the Board by state employees and prosecuting those complaints the OSC finds meritorious, including seeking disciplinary action against those state employees who have engaged in discriminatory conduct; and
- c. The most salient amendment to the bill would specify under what circumstances a complaining party will be deemed to have exhausted his or her administrative remedies for purposes of filing a complaint in the superior court.

**ACTION: NEUTRAL**

- **SB 606 (KEHOE)**

This bill would state that the State Personnel Board may create a classification for full-time life guards that does not require completion of the basic training course established by the Commission on Peace Officers Standards and Training.

**ACTION: OPPOSE**

- **SB 1095 (CHESBRO)**

This bill would amend existing law by allowing the California Conservation Corps (CCC) exceptions to the current requirements relating to 1) procurement or management of motor vehicle fleets; 2) hire, lease, lease-purchase of property or facilities; 3) limited-term appointments; and 4) hiring-above-minimum salary adjustments.

This analysis is limited to those provisions that directly impact the State Personnel Board (SPB). Specifically, the bill would allow CCC to extend limited-term (LT) appointments, beyond the current 2 years, to a maximum of 4 years, when authorized by SPB.

**ACTION: NEUTRAL**

**8. ORAL ARGUMENT**

Oral argument in the matter of **CHAD LOOK, CASE NO. 04-1789**.  
Appeal from 60 working days suspension. Correctional Officer.  
Department of Corrections.

Participants:

Cynthia A. Rojas, representing the Department of Corrections.  
Chad Look, representing himself.

**ACTION: SUBMITTED**

**9. ORAL ARGUMENT**

Oral argument in the matter of **JAMES MCAULEY, CASE NO. 04-1856**.  
Appeal from dismissal. Associate Transportation Engineer, Caltrans (Registered).  
Department of Transportation.

Participants:

Janelle Bradley, representing the Department of Transportation.  
Andrew Schwartz, representing the appellant.

**ACTION: SUBMITTED**

**10. HEARING – PERSONAL SERVICES CONTRACT # 05-02:  
International Union of Operating Engineer's Appeal of the  
Executive Officer's Decision**

Appeal of the International Union of Operating Engineers from the Executive Officer's  
January 5, 2005 Decision Denying Review of Contracts for Drilling Services between  
the California Department of Transportation and URS Corporation and Geocon  
Consultants, Inc.

Participants:

David Myers, representing the International Union of Operating Engineers.  
Todd Santon, representing the California Department of Transportation.

**ACTION: SUBMITTED**

**11. DISABLED IN STATE SERVICE (DISS) - Ralph Black/Pat McPartland**

DISS to share its perspective on AB 124 and other legislation impacting individuals  
with disabilities.

**12. INFORMATIONAL BRIEFING: SCOPE OF BARGAINING (PART I) –  
Carol Ong, Manager, State Personnel Board  
Elise Rose, Chief Counsel, State Personnel Board**

Informational briefing on scope of bargaining issues, including recent State Supreme Court litigation. Future briefing to be scheduled for comments by employee representatives, and other interested parties and agencies.

**CLOSED SESSION OF THE STATE PERSONNEL BOARD**

**13. EMPLOYEE PERSONNEL MATTER**

Deliberation to consider the appointment, employment, evaluation of performance or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing. [Government Code Section 11126(a)(1).]

**14. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS,  
AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW  
JUDGES**

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]

**15. PENDING LITIGATION**

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial. [Government Code sections 11126(e)(1) and 18653.]

State Personnel Board v. Department of Personnel Administration,  
California Supreme Court Case No. S119498.

State Personnel Board v. California State Employees Association,  
California Supreme Court Case No. S122058.

Connerly v. State Personnel Board, California Supreme Court  
Case No. S125502.

International Union of Operating Engineers v. State Personnel Board,  
Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.



State Compensation Ins. Fund v. State Personnel Board/CSEA,  
Sacramento Superior Court No. 04CS00049.

SEIU Local 1000 (CSEA) v. State Personnel Board  
Sacramento Superior Court No. 05CS00374

The Copley Press, Inc. v. San Diego Superior Court  
California Supreme Court No. S128603

**16. RECOMMENDATIONS TO THE LEGISLATURE**

Deliberations on recommendations to the legislature.  
[Government Code section 18653.]

**17. RECOMMENDATIONS TO THE GOVERNOR**

Deliberations on recommendations to the Governor on scope of bargaining.  
[Government Code section 18653.]

**PUBLIC SESSION OF THE STATE PERSONNEL BOARD**

**18. DISCUSSION OF COMING BOARD MEETING SCHEDULE OF  
JUNE 21, 2005, IN SACRAMENTO, CALIFORNIA**

**19. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES**

May 17, 2005 Minutes – adopted

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

**20. EVIDENTIARY CASES - (See Case Listings on Page 14-21)**

**21. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE  
SECTION 18671.1 EXTENSION - (See Minutes Page 27-28)  
ACTION: APPROVED**

**22. NON-EVIDENTIARY CASES - (See Case Listings on Page 21-24)**

**23. NON-HEARING CALENDAR**

Proposals are made to the State Personnel Board by either the Board staff or  
Department of Personnel Administration staff.

**NONE**

**24. STAFF CALENDAR ITEMS FOR BOARD INFORMATION**

**NONE**

**25. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY**

This section of the Minutes serves to inform interested individuals and departments of proposed and approved CEA position actions.

The first section lists position actions that have been proposed and are currently under consideration.

Any parties having concerns with the merits of a proposed CEA position action should submit their concerns in writing to the Classification and Compensation Division of the Department of Personnel Administration, the Merit Employment and Technical Resources Division of the State Personnel Board, and the department proposing the action.

To assure adequate time to consider objections to a CEA position action, issues should be presented immediately upon receipt of the State Personnel Board Agenda in which the proposed position action is noticed as being under consideration, and generally no later than a week to ten days after its publication.

In cases where a merit issue has been raised regarding a proposed CEA position action and the dispute cannot be resolved, a hearing before the five-member Board may be scheduled. If no merit issues are raised regarding a proposed CEA position action, and it is approved by the State Personnel Board, the action becomes effective without further action by the Board.

The second section of this portion of the Agenda reports those position actions that have been approved. They are effective as of the date they were approved by the Executive Officer of the State Personnel Board.

**A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION**

**CHIEF, FINANCIAL MANAGEMENT BRANCH**

The Department of Industrial Relation's proposes to allocate the above position to the CEA category. The Chief, Financial Management Branch is responsible for the Office of Budget and Revenue Management, the Accounting Services Bureau and the Business Management Bureau.

**CHIEF, MEDI-CAL OVERSIGHT**

The Department of Mental Health proposes to allocate the above position to the CEA category. The Chief, Medi-Cal Oversight is responsible for formulating policy and procedures related to the implementation as well as the day-to-day statewide management of the Medi-Cal Oversight program.

**B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW CEA POSITIONS**

**DEPUTY DIVISION CHIEF, BENEFITS DIVISION**

The Department of Personnel Administration's request to establish the above position to the CEA category has been approved effective May 2, 2005.

**GENERAL COUNSEL**

The Department of Industrial Relations request to establish the above position to the CEA category has been approved effective May 6, 2005.

**SPECIAL ASSISTANT TO THE UNDERSECRETARY**

The Youth and Adult Correctional Agency's request to establish the above position to the CEA category has been approved effective May 6, 2005.

**DEPUTY DIRECTOR**

The Department of Boating and Waterway's request to establish the above position to the CEA category has been approved effective May 6, 2005.

**DIRECTOR, ACCOUNTING DIVISION**

The California State Teachers' Retirement System's request to establish the above position to the CEA category has been approved effective May 6, 2005.

**CHIEF, TECHNOLOGY SERVICES DIVISION**

The Board of Equalization's request to revise the above existing CEA allocation has been approved effective May 16, 2005.

**26. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS**

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

**NONE**

**27. WRITTEN STAFF REPORT FOR BOARD INFORMATION/APPROVAL**

**1. REPORT TO THE LEGISLATURE –  
Whistleblower Retaliation Complaints**

Government Code section 19683(F) requires the State Personnel Board to provide the Governor and the Legislature with an Annual Report regarding complaints filed and legal actions taken pursuant to SPB's role in the California Whistleblower Protection Act. This report covers the 2004 Calendar year. SPB staff is requesting the Board approve this report for submission to the Governor and Legislature.

**ACTION: APPROVED**

**2. REPORT TO THE LEGISLATURE –  
2001-2002 & 1999-2000 Language Surveys**

Government Code Section 7299.6 requires the State Personnel Board to submit to the Legislature, the Statewide Language Survey results reported by state agencies. This report details the results of the 2001-02 Language Survey, and also includes an addendum that contains the results of the 1999-2000 Language Survey.

**ACTION: APPROVED**

**28. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY**

**NONE**

**29. BOARD ACTIONS - (See Minutes - Page 25-26)**

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those cases are listed separately by category on this Minutes under Evidentiary Cases.

**A D J O U R N M E N T**

## 20. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

### A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting.

On June 7, 2005, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

#### (1) **TIMOTHY PORT, CASE NO. 04-2372**

Appeal from dismissal

**Classification:** Correctional Officer

**Department:** Department of Corrections

Case taken under submission at the May 3, 2005 Board meeting.

Case to be considered at the June 7, 2005 Board meeting.

**ACTION:** The Board issued a non-precedential decision adopting the Proposed Decision of the ALJ revoking appellant's dismissal.

#### (2) **DARYL STONE, CASE NO. 04-0279A**

Appeal from dismissal

**Classification:** Police Officer I

**Department:** Department of Developmental Services

ALJ's Proposed Decision rejected by the Board on February 8, 2005.

Transcript prepared

Oral argument May 3, 2005

Case ready for decision by FULL Board

**NO ACTION**

**B. CASES PENDING**

**ORAL ARGUMENTS**

These cases were on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

- (1) CHAD LOOK, CASE NO. 04-1789**  
Appeal from 60 working days' suspension  
**Classification:** Correctional Officer  
**Department:** Department of Corrections  
**ACTION: SUBMITTED**
- (2) JAMES MCAULEY, CASE NO. 04-1856**  
Appeal from dismissal  
**Classification:** Associate Transportation Engineer,  
Caltrans (Registered)  
**Department:** Department of Transportation  
**ACTION: SUBMITTED**

**C. CHIEF COUNSEL RESOLUTIONS**

**NONE**

**COURT REMANDS**

This case would have been remanded to the Board by the court for further Board action.

**NONE**

**STIPULATIONS**

These stipulations would have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

**NONE**

**D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS**

**PROPOSED DECISIONS**

These were ALJ proposed decisions submitted to the Board for the first time.

On June 7, 2005, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

- (1) BERT ANDERSON, CASE NO. 05-0514**  
Appeal from five percent reduction in salary for six months  
**Classification:** Parole Agent I  
**Department:** Department of Corrections  
**ACTION:** The Board adopted the ALJ's Proposed Decision revoking the five percent reduction in salary for six months.
- (2) DAVID BOOKER, SPB CASE NO. 05-0032**  
Appeal from dismissal  
**Classification:** Youth Correctional Officer  
**Department:** Department of Youth Authority  
**ACTION:** The Board adopted the ALJ's Proposed Decision modifying the dismissal to a six-month suspension.
- (3) XANDRALYNE CONNORS, CASE NO. 04-0463E**  
Appeal from denial of reasonable accommodation  
**Classification:** Office Assistant (Typing)  
**Department:** Department of Social Services  
**ACTION:** The Board adopted the ALJ's Proposed Decision denying the request for back pay pursuant to a denial of reasonable accommodation.
- (4) GERARDO CRUZ, CASE NO. 04-2249**  
Appeal from official reprimand  
**Classification:** Youth Correctional Officer  
**Department:** Department of Youth Authority  
**ACTION:** The Board adopted the ALJ's Proposed Decision sustaining the official reprimand.

- (5) **PHYLLIS HARMON, CASE NO. 03-1693**  
Appeal from dismissal  
**Classification:** Exhibit Representative II  
**Department:** Department of Food and Agriculture  
**ACTION:** The Board adopted the ALJ's Proposed Decision sustaining the dismissal.
- (6) **AMY JOHNSON, CASE NO. 04-2329**  
Appeal from rejection during probationary period  
**Classification:** Social Worker I  
**Department:** Department of Social Services  
**ACTION:** The Board adopted the ALJ's Proposed Decision affirming the rejection on probation.
- (7) **ESTEBAN M. MORALES, CASE NO. 04-1088**  
Appeal from dismissal  
**Classification:** Psychiatric Technician  
**Department:** Department of Developmental Services  
**ACTION:** The Board adopted the ALJ's Proposed Decision sustaining the dismissal.
- (8) **CEDRICK L. PINKNEY, CASE NO. 04-2817**  
Appeal from dismissal  
**Classification:** Custodian/Janitor  
**Department:** Department of Education  
**ACTION:** The Board adopted the ALJ's Proposed Decision sustaining the dismissal.
- (9) **ANDREW RUIZ, CASE NO. 04-2391**  
Appeal from dismissal  
**Classification:** Correctional Lieutenant  
**Department:** Department of Corrections  
**ACTION:** The Board rejected the ALJ's Proposed Decision revoking the dismissal. The Board will decide the case itself.
- (10) **CEDRIC SHINER, CASE NO. 04-2135**  
Appeal from suspension  
**Classification:** Youth Correctional Counselor  
**Department:** Department of Youth Authority  
**ACTION:** The Board adopted the ALJ's Proposed Decision sustaining the 30 calendar days suspension.



- (11) **JULIO VALADES, CASE NO. 04-1943**  
Appeal from termination of Career Executive Assignment  
**Classification:** Career Executive Assignment  
**Department:** Department of Corrections  
**ACTION:** The Board adopted the ALJ's Proposed Decision dismissing the appeal for lack of jurisdiction.
- (12) **ISSAC VARGAS, CASE NO. 04-2282**  
Appeal from suspension for 30 calendar days  
**Classification:** Youth and Correctional Counsel  
**Department:** Department of Youth Authority  
**ACTION:** The Board remanded the Proposed Decision to the ALJ.
- (13) **DARLENE WILLIAMS, CASE NO. 04-2681**  
Appeal from constructive medical termination  
**Classification:** Evaluator I  
**Department:** California State University, Long Beach  
**ACTION:** The Board adopted the ALJ's Proposed Decision dismissing the appeal.

**Proposed Decisions Taken Under Submission At Prior Meeting**

These would have been ALJ proposed decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

**NONE**

**PROPOSED DECISIONS AFTER BOARD REMAND**

**NONE**

**PROPOSED DECISIONS AFTER SPB ARBITRATION**

**NONE**

**E. PETITIONS FOR REHEARING**

**ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD**

The Board would have voted to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

**NONE**

### **WHISTLEBLOWER NOTICE OF FINDINGS**

The Board voted to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

On June 7, 2005, the Board took the following actions on the following cases presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

- (1) **MARY FORD, CASE NO.04-0325P**  
Appeal from 15 calendar days' suspension  
**Classification:** Correctional Officer  
**Department:** Department of Corrections  
**ACTION:** The Board denied the petition for rehearing.
- (2) **LUIS VALENZUELA, CASE NO.04-0522R**  
Appeal from dismissal  
**Classification:** Correctional Officer  
**Department:** Department of Corrections  
**ACTION:** The Board denied the petition for rehearing.

### **F. PENDING BOARD REVIEW**

These cases were pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

- (1) **PATRICK BARBER, CASE NO. 04-0279**  
Appeal from dismissal  
**Classification:** Youth Correctional Counselor  
**Department:** Department of the Youth Authority  
  
Proposed decision adopted November 3, 2004  
Modifying dismissal to 45-calendar day suspension  
Petition for Rehearing granted February 8-9, 2005  
  
Transcript prepared  
Pending oral argument June 7, 2005, Sacramento  
Oral argument continued  
Pending oral argument July 12-13, 2005, Sacramento

- (2) **JON CHASE, CASE NO. 04-0392**  
Appeal from 30 working days suspension  
**Classification:** Associate Management Auditor  
**Department:** Employment Development Department

Proposed decision rejected April 19, 2005  
Transcript prepared  
Pending oral argument July 12-13, 2005, Sacramento  
Oral argument continued

- (3) **FRANK GARCIA, CASE NO. 04-0092P**  
Appeal from dismissal  
**Classification:** Chief Engineer I  
**Department:** Department of Corrections

Petition for rehearing granted May 3, 2005  
Pending transcript

- (4) **CHAD LOOK, CASE NO. 04-1789**  
Appeal from 60 working days suspension  
**Classification:** Correctional Officer  
**Department:** Department of Corrections

Proposed decision rejected January 11, 2005  
Transcript prepared  
Pending oral argument June 7, 2005, Sacramento

- (5) **JOSEPH MARTINEZ, CASE NO. 04- 2690**  
Appeal from dismissal  
**Classification:** Hospital Police Officer  
**Department:** Department of Mental Health

Proposed decision rejected May 17, 2005  
Pending transcript

- (6) **JAMES MCAULEY, CASE NO. 04-1856**  
Appeal from dismissal  
**Classification:** Associate Transportation Engineer, Caltrans  
(Registered)  
**Department:** Department of Transportation

Proposed decision rejected March 8-9, 2005  
Transcript prepared  
Pending oral argument June 7, 2005, Sacramento

June 7, 2005

**(7) KIM RITTENHOUSE, CASE NOs. 03-3541A & 03-3542E**

Appeal from denial of reasonable accommodation  
and from constructive medical termination

**Classification:** Office Technician (General)

**Department:** Department of Fish and Game

Proposed decision rejected May 18, 2004

Pending transcript

**22. NON-EVIDENTIARY CASES**

**A. WITHHOLD APPEALS**

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff.

**WITHHOLD FROM CERTIFICATION**  
**CASES HEARD BY A STAFF HEARING OFFICER**

**NONE**

**WITHHOLD FROM CERTIFICATION**  
**CASES NOT HEARD BY A STAFF HEARING OFFICER**

On June 7, 2005, the Board adopted as indicated below the following decisions presented by Laura Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

**(1) ANDREW ARESHENKO, CASE NO. 04-1694**

**Classification:** Correctional Officer

**Department:** Department of Corrections

**Issue:** Suitability; negative law enforcement contacts, pending criminal prosecution at the time of application.

**ACTION: DENIED**

**(2) PAUL BARTON, CASE NO. 04-1701**

**Classification:** Correctional Officer

**Department:** Department of Corrections

**Issue:** Suitability; omitted pertinent information and furnished inaccurate information.

**ACTION: DENIED**

- (3) **MARC BLACKBURN, CASE NO. 04-2200**  
**Classification:** Correctional Officer  
**Department:** Department of Corrections  
**Issue:** Suitability and active warrant for his arrest.  
**ACTION: DENIED**
- (4) **WADE MORRIS, CASE NO. 04-1700**  
**Classification:** Correctional Officer  
**Department:** Department of Corrections  
**Issue:** Suitability; omitted pertinent information, had a negative military record and failed to meet legal obligations.  
**ACTION: DENIED**
- (5) **AARON PENNER, CASE NO. 04-0828**  
**Classification:** Correctional Officer  
**Department:** Department of Corrections  
**Issue:** Suitability.  
**ACTION: DENIED**
- (6) **CELZA RUIZ, CASE NO. 04-1591**  
**Classification:** Correctional Officer  
**Department:** Department of Corrections  
**Issue:** The appellant is legally prohibited from carrying a firearm.  
**ACTION: DENIED**
- (7) **MICHAEL TUNNELL, CASE NO. 04-1596**  
**Classification:** Correctional Officer  
**Department:** Department of Corrections  
**Issue:** Suitability; furnished inaccurate and omitted pertinent information and arrest/conviction history.  
**ACTION: DENIED**

**B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS**

Cases would have been heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board would have been presented recommendations by a Hearing Panel on each appeal.

**NONE**

**C. EXAMINATION APPEALS  
MINIMUM QUALIFICATIONS  
MERIT ISSUE COMPLAINTS**

Cases would have been heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board would have been presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

**EXAMINATION APPEALS**

**NONE**

**MINIMUM QUALIFICATIONS**

**NONE**

**MERIT ISSUE COMPLAINTS**

**NONE**

**D. RULE 211 APPEALS  
RULE 212 OUT OF CLASS APPEALS  
VOIDED APPOINTMENT APPEALS**

Cases would have been heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board would have been presented recommendations by a Staff Hearing Officer for final decision on each appeal.

**NONE**

**E. REQUEST TO FILE CHARGES CASES**

Investigated by Appeals Division staff. The Board was presented recommendations by Appeals Division staff for final decision on each request.

**(1) ROMER CRISTOBAL, CASE NO. 04-1087**

**Classification:** Victim Compensation Specialist

**Department:** Victim Compensation & Government Claims Board

**Issue:** The charging party requests to file charges against a Manager.

**ACTION: DENIED**

**(2) TIMOTHY HARRIS & ANTONIA DELGADO,  
CASE NOS. 04-1223 & 04-1224**

**Classification:** Motor Vehicle Field Representatives

**Department:** Department of Motor Vehicles

**Issue:** The charging parties requests charges be filed against the charged party for violations of various subsections of Government Code section 19572.

**ACTION: DENIED**

**(3) RICHARD MASON, CASE NO. 04-1638**

**Classification:** Correctional Officer

**Department:** Department of Corrections

**Issue:** The charging party requests that charges be filed against the charged party for violations of various subsections of Government Code section 19572.

**ACTION: DENIED**

**PETITIONS FOR REHEARING CASES**

**NONE**

**F. PSYCHOLOGICAL SCREENING CASES**

Cases reviewed by Appeals Division staff, but no hearing was held. It was anticipated that the Board would have acted on these proposals without a hearing.

**NONE**

**SUBMITTED**

**1. TEACHER STATE HOSPITAL (SEVERELY), ETC.**

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

**NO ACTION**

**2. VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)**

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

**NO ACTION**

**3. TELEVISION SPECIALIST (SAFETY)**

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

**NO ACTION**

**4. HEARING – Personal Services Contract #04-03**

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

**NO ACTION**

**5. HEARING**

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

**NO ACTION**



**6. HEARING – Personal Services Contract #04-06**

Appeal of the California Regional Water Quality Control Board (RWQCB) from the Executive Officer's October 27, 2004 Disapproval of a Contract with the City of Glendale (Glendale) Reviewed at the Request of the California Association of Professional Scientists (CAPS) (Hearing held April 6, 2005.)

**ACTION:** The Board sustained the Executive Officer's decision disapproving the contract with members Alvarado and Sheehan dissenting.

**7. HEARING – Personal Services Contract #05-01**

Appeal of the California Attorneys, Administrative Law Judges and Hearing Officers in State Employment from the Executive Officer's December 28, 2004 Approval of a Contract for Legal Services between the California Department of Health Services and Covington & Burling (Hearing held May 3, 2005.)

**ACTION:** The Board sustained the Executive Officer's decision approving the contract.

**8. DARYL STONE, CASE NO. 04-0279A**

Appeal from dismissal. Police Officer I. Department of Developmental Services. (Oral argument held May 3, 2005)

**NO ACTION**

**9. TIMOTHY PORT, CASE NO. 04-2372**

Appeal from dismissal. Correctional Officer. Department of Corrections. (Case taken under submission at May 3, 2005 Board meeting.)

**ACTION:** The Board issued a non-precedential decision adopting the Proposed Decision of the ALJ revoking appellant's dismissal.

**10. HEARING – Personal Services Contract #05-02**

Appeal of the International Union of Operating Engineers from the Executive Officer's January 5, 2005 Decision Denying Review of Contracts for Drilling Services between the California Department of Transportation and URS Corporation and Geocon Consultants, Inc. (Hearing held June 7, 2005)

**ACTION: SUBMITTED**

**NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION**

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

**GOVERNMENT CODE SECTION 18671.1 RESOLUTION**

**WHEREAS**, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

**WHEREAS**, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

**WHEREAS**, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

**WHEREAS**, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

\* \* \* \* \*

## **CORRECTIONS**

In the Summary Minutes of March 22, 2005, page 12, the following case and action should have been included under **PROPOSED DECISIONS AFTER SPB ARBITRATION:**

**(1) BRIAN RENFROW, CASE NO. 04-2396**

Appeal from five-day suspension

**Classification:** Officer, California Highway Patrol

**Department:** California Highway Patrol

**Action:** The Board adopted the ALJ's Proposed Decision sustaining the five-day suspension on a previous Board date of March 8-9, 2005.

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on June 7, 2005.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

A handwritten signature in black ink, reading "Floyd D. Shimomura". The signature is written in a cursive style with a long horizontal flourish at the end.

FLOYD D. SHIMOMURA  
Executive Officer  
California State Personnel Board